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12 November 1948

MEMORANDUM FOR: THE CHAIRMAN OF THE MUNITIONS BOARD

SUBJECT: Legal Considerations Involved in Service to the Government
by Members of Private Industry

1. The following statutes deal generally with the limitations on private individuals doing business with the Government:

a. 18 U. S. C. Sec. 283 makes it an offense for an officer or employee of the United States to act as an agent or an attorney or to aid or assist in the prosecution or support of a claim against the Government except in the discharge of his official duties.

b. 18 U. S. C. Sec. 281 makes it an offense for a member of Congress, an officer or clerk in the employ of the United States to receive compensation for services rendered by himself or another in relation to any proceeding, contract claim, or other matter in which the United States is a party or is interested before any department, agency, officer, etc.

c. 18 U. S. C. Sec. 284 makes it an offense for any person, having been employed in any Government agency, within two years after such employment has ceased, to prosecute or to act as counsel or agent for any claim against the United States involving a subject matter directly connected with such employment.

d. 18 U. S. C. Sec 434 provides that no officer or agent of any corporation or firm or person interested in the profits or contracts of such firm shall be employed or act as officer or agent of the United States for transaction of business with such corporation, person or firm.

e. 5 U. S. C. Sec. 99 provides that it shall be unlawful for an officer, clerk or employee in any of the departments to act as counsel or agent for a claim against the United States which was pending in the Department in which he was employed while he was employed within two years after he has ceased to be such officer, clerk or employee.

f. 5 U. S. C. Sec. 66 makes it an offense for an official or employee of the Government to receive any salary in connection with his services as such employee from any source other than the Government and for any person or corporation to contribute or supplement the salary of any such employee for the services performed by him for the Government.

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g/ 31 U. S. C. Sec. 665 in general prohibits among other things acceptance of voluntary service for the Government.

2. Public Law 520 (The Stockpiling Act contains a provision for the employment of industry advisory committees. Public Law 253 of the 80th Congress (The National Security Act of 1947), in section 303, authorizes the Secretary of Defense to employ advisory committees and part-time advisory personnel and provides further an exemption from the first three statutes listed in paragraph 1 with the condition "unless the act of such individual, which by such section is made unlawful -- is with respect to any particular matter which directly involves a Department or Agency which such personnel is advising or in which such Department or Agency is directly interested."

3. The cited statutes cover the sole issue of employment. Listing of the obvious statutes dealing with bribery and such offenses is not considered germane.

4. Rather than by general discussion, specific cases should be considered where the problem involved is: leave with pay from industry, consultant fees from industry, consultant fees from Government, and the amount of time required from an officer, an employee, or a consultant, (Other than heads of departments, officers and employees are bound by the statutory provisions establishing the forty (40) hour week.)

5. I am aware of no general provision of law which prohibits the individual from rendering service to both industry and government consistently with the cited statutes. (An example of a specific provision is the statute creating the Civil Aeronautics Board, which specified that members shall not engage in any other "business vocation or employment.")
[Add Secretary of Treasury, Treasurer, and Registry of the Treasury.]

Signed

L. Niederlehner
Counsel for the Munitions Board